

- Group IV: Claims 12 and 13, drawn to a process for producing 3-(3-hydroxy-4-methoxyphenyl)-3-methylbutyl aldehyde;
- Group V: Claims 14 and 15 drawn to a process for producing a specific phenylalanine methyl ester; and
- Group VI: Claim 16 drawn to a process for producing a specific phenylalanine methyl ester.

Applicants have elected, with traverse, Group I, Claims 1-7 drawn to a process for producing a compound of Formula 2 for examination.

Applicants note that Claims 17-24 (Group VII) are canceled because Claims 17-24 were previously elected and have since issued in U.S. patent 6,693,214.

Restriction is only proper if the claims of the restricted groups are independent or patentably distinct and there would be a serious burden placed on the Examiner if restriction is not required. (M.P.E.P. §803). The burden of proof is on the Examiner to provide reasons and/or examples, to support any conclusion in regard to patentable distinctness (M.P.E.P. §803). Applicants respectfully traverse the Restriction Requirement on the grounds that the Examiner has not carried the burden of providing sufficient reasons and/or examples to support any conclusions that the claims of the restricted groups are patentably distinct.

The Examiner concludes that the groups are independent inventions because they are not capable of use together and they have different modes of operation, different functions or different effects (MPEP §806.04).

The Examiner states that Groups I-VI are unrelated and the groups have different functions, different effects and the products or reagents of the groups are mutually exclusive.

Applicants note that the groups are capable of use together and are not independent of each other because they all involve a process for producing a novel intermediate for

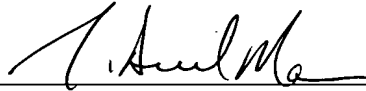
sweeteners. Accordingly, the Examiner's reasoning is nearly a restatement of the Examiner's conclusion that the groups are patentably distinct. As the Examiner has provided insufficient reasons in support of his belief, the Examiner has not met the burden placed upon him and accordingly, the restriction is believed to be improper and should be withdrawn.

Applicants also note that the Examiner restricted Claims 1-16 into just two groups in the parent of this Divisional Application and not six groups. For this reason, Applicants believe that the current six group restriction is excessive.

Applicants submit this application is now in condition for examination on the merits and early notification of such action is earnestly solicited.

Respectfully submitted,

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